



PATENT
Customer No. 22,852
Attorney Docket No. 04329.2495

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Norimasa NIIYA) Group Art Unit: 2643
Application No.: 09/758,321) Examiner: TAYLOR, Barry W.
Filed: January 12, 2001)
For: KEY TELEPHONE SYSTEM AND)
INTERFACE UNIT FOR KEY)
TELEPHONE)

#14
smc
4/1/04

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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MAR 31 2004
Technology Center 2600

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action mailed February 17, 2004, the period for response extending to May 17, 2004, please reconsider the above-referenced application in light of the following remarks.

In the Office Action, the Examiner provisionally rejected pending claims 1-14 under the judicially created doctrine of double patenting over claims 1-25 of copending Application No. 09/993,708. Applicant notes that it appears the Examiner has inadvertently referred to claims 1-14 of the present application, when in fact, due to the Amendment filed October 28, 2003 that accompanied the Request for Continued Examination (RCE), claims 1, 5, and 9-14 remain pending.

Applicant further notes the Examiner's obviousness-type double patenting provisional rejections made on pages 2 and 3 of the Office Action. Applicant respectfully traverses these provisional rejections, at least because no actual double-patenting circumstance can arise until a patent issues from the cited application. Applicant further requests that any resolution in the form of submission of a Terminal Disclaimer, if necessary, be deferred until such patent issues. Accordingly, Applicant respectfully requests the Examiner to withdraw these provisional rejections of the claims.

Applicant also notes that M.P.E.P. § 804 addresses the situation of two copending applications. The section indicates that "[t]he 'provisional' double patenting rejection should continue to be made by the examiner in each application . . . unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." See M.P.E.P. § 804. For at least this additional reason, Applicant requests that any resolution in the form of submission of a Terminal Disclaimer, if necessary, be deferred.

In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 30, 2004

By: Anthony Yehli Reg. No. 53,232
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